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JOHN B. ADAMS Senior Attorney



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EXECUTIVE SECRETARY

VIA OVERNIGHT DELIVERY

July 15, 1997

David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

RE: Universal Service Generic Contested Case, Docket No. 97-00888

Dear Mr. Waddell:

Enclosed for filing is an original and fourteen copies of an Emergency Request for Interim Relief of Citizens Telecommunications Company of Tennessee, LLC and Citizens Telecommunications Company of the Volunteer State, LLC, (collectively, the "Citizens LECs") in the above referenced proceeding.

An additional copy of this filing is included for date stamping and return in the enclosed, self-addressed and postage prepaid envelope.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script, reading "John B. Adams".

John B. Adams
Senior Attorney

CC (w/ enclosures): Wayne Lafferty
J. Michael Swatts

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In re: Universal Service Generic Contested Case

Docket No. 97-00888

EMERGENCY REQUEST FOR INTERIM RELIEF

Citizens Telecommunications Company of Tennessee L.L.C. (CTC-TN) and Citizens Telecommunications Company of the Volunteer State L.L.C. (CTC-VS) (collectively, the Citizens LECs), by their attorney, submit this Emergency Request for Interim Relief, and, in support thereof, respectfully show as follows:

1. The Citizens LECs filed a Petition for Establishment of Alternative Universal Service Support Mechanisms (Petition) on April 21, 1997. That Petition was incorporated by the TRA into the above-referenced proceeding.¹ In their Petition, the Citizens LECs demonstrated the need for alternative universal support mechanisms in Tennessee because of changes wrought by the Telecommunications Act of 1996² as well as changes in the Tennessee marketplace. Among other developments, the Citizens LECs identified the cessation of implicit subsidy flows when they convert to intraLATA equal access on August 8, 1997 as required by Section 251(b)(3) of the Communications Act of 1934, as amended, 47 U.S.C. § 251(b)(3), and Section 51.211(c) of the Federal Communications Commission's rules, 47 C.F.R. § 51.211(c).³ The

¹ See Order Convening Generic Contested Case issued May 29, 1997.

² Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified at 47 U.S.C. §§ 151 *et. seq.*) (1996 Act).

³ Currently pending before the Tennessee Regulatory Authority (TRA) is the Citizens LECs' joint petition for approval of their intraLATA toll dialing parity implementation plan, Docket No. 97-00275.

subsidy flows that will cease include the implicit subsidies embedded in intraLATA toll settlements and in the Modified Revenue Distribution Fund (MDRF).⁴ These implicit subsidies benefit universal service.

2. With the August 8, 1997 date rapidly approaching, the Citizens LECs are faced with the loss of significant annual implicit subsidies (potentially in the millions of dollars) that benefit universal service. Moreover, no alternative explicit universal service funding mechanisms to replace these implicit subsidies have been approved by the TRA.⁵ Thus, the loss of these subsidy flows will have a devastating impact on the Citizens LECs' ability to provide universal service at "affordable" rates in Tennessee.

3. Accordingly, the Citizens LECs propose two alternative means of replacing the lost implicit subsidy flows benefiting universal service until such time as the TRA approves a permanent explicit universal service funding mechanism -- (i) making permanent explicit universal service support mechanism subsidies retroactive to August 8, 1997, and, (ii) with respect to CTC-TN, using the existing deferred revenue account funds to temporarily replace the lost subsidies.

5. Making the permanent universal service support mechanism, when implemented, retroactive to August 8, 1997 would ensure that the lost implicit subsidy flows would be recovered, albeit on a deferred basis, when the TRA approves a permanent explicit universal support mechanism. The TRA should, however, commit to such course of action now, rather

⁴ Petition at 2.

⁵ Congress mandated that all existing implicit universal service support should be made explicit. 47 U.S.C. § 254(e); Joint Explanatory Statement of the Committee of the Conference (H.R. Rep. No. 458, 104th Cong., 2d Sess. at 131; Federal-State Joint Board on Universal Service, Report and Order, CC Docket 96-45, FCC 97-157 (May 8, 1997) at ¶ 9.

than waiting to do so when it finally approves a permanent explicit universal service support mechanism. Absent a current determination of retroactivity, the issues presented herein will remain unresolved and the Citizens LECs will be forced to seek other means of replacing the lost implicit subsidy flows.

4. Further, CTC-TN could use the \$1.24 million currently in its deferred revenue account⁶ to replace the lost subsidy flows until such time as the TRA approves a permanent universal service support mechanism or the funds are exhausted. During this time, the TRA would have opportunity to approve an explicit universal service support mechanism as contemplated by Congress. The preservation of universal service is a laudable goal enshrined in both state and federal law. Using the deferred revenue account funds to preserve universal service is an excellent way to utilize those funds for the benefit of end users.

5. It is imperative that the TRA quickly approve alternative explicit universal service support mechanisms. Unless the TRA approves an alternative explicit universal service support mechanism by August 8, 1997 or otherwise provides relief, the Citizens LECs' earnings may be driven so low as to be confiscatory. Although CTC-VS could seek to raise its rates to avoid this outcome, CTC-TN, a price cap carrier, is limited in its ability to seek increased rates or access charges. A rate increase is not, in any event, an attractive option, especially when there are other available options. The other available options include allowing CTC-TN to use deferred revenue account funds to offset implicit subsidy losses and to make the permanent explicit universal service support mechanism, when approved and implemented, retroactive to August 8, 1997. The best option, however, is for the TRA to quickly approve a permanent explicit universal

⁶

CTC-VS does not currently have funds in a deferred revenue account.

service support mechanism.

CONCLUSION

Beginning on August 8, 1997, the Citizens LECs will lose significant annual implicit subsidy flows (potentially in the millions of dollars) that support universal service in Tennessee. In the absence of an explicit universal service support mechanism, these subsidy flows will not be replaced. Thus, the ability of the Citizens LECs to continue to provide universal service at “affordable” rates in Tennessee is seriously threatened. The Citizens LECs propose to implement interim measures to replace the lost implicit subsidies until such time as the TRA approves a permanent explicit universal service support mechanism. Specifically, the Citizens LECs propose making the permanent universal service support mechanism, when approved and implemented, retroactive to August 8, 1997 and, as to CTC-TN, using existing deferred revenue account funds to temporarily replace the lost implicit subsidies. Moreover, the Citizens LECs urge the TRA to quickly approve a permanent explicit universal service support mechanism.

WHEREFORE, the Citizens LECs request that the TRA grant the interim relief requested herein.

Respectfully submitted,

CITIZENS TELECOMMUNICATIONS
COMPANY OF TENNESSEE L.L.C.

and

CITIZENS TELECOMMUNICATIONS
COMPANY OF THE VOLUNTEER
STATE L.L.C.

By:



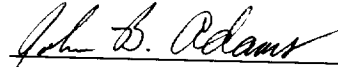
John B. Adams, Senior Attorney
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July 15, 1997

Certificate of Service

I, John B. Adams, Senior Attorney for Citizens Utilities Company, certify that a copy of the foregoing "Emergency Request for Interim Relief" has been served upon the persons identified on the attached list by first class mail this 15th day of July, 1997.

A handwritten signature in cursive script, reading "John B. Adams", written in dark ink.

John B. Adams